

By Representative Trovillion

1 A bill to be entitled
2 An act relating to public deposits; amending s.
3 280.02, F.S.; defining the terms "affiliate,"
4 "book-entry form," "operating subsidiary,"
5 "pledged collateral," "pledgor," "pool figure,"
6 "Treasurer's custody," and "triggering events"
7 and redefining the terms "collateral-pledging
8 level" and "public deposit"; amending s.
9 280.04, F.S.; revising general provisions
10 relating to collateral for public deposits;
11 creating s. 280.041, F.S.; prescribing
12 requirements for collateral arrangements;
13 providing duties and powers of the Treasurer;
14 prescribing duties and powers of depositories;
15 amending s. 280.13, F.S.; revising the list of
16 securities eligible to be pledged as
17 collateral; amending s. 625.52, F.S.; revising
18 requirements for certificates of deposit to
19 constitute securities eligible for deposit;
20 amending s. 660.27, F.S.; providing
21 requirements for deposit of securities with the
22 Department of Banking and Finance; authorizing
23 the department to adopt rules with respect to
24 the deposit of securities; providing an
25 effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 280.02, Florida Statutes, is
30 amended to read:

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1 280.02 Definitions.--As used in this chapter, the
2 term:

3 (1) "Affiliate" means an entity that is related
4 through a parent corporation's controlling interest. The term
5 also includes any financial institution holding company or any
6 subsidiary or service corporation of such holding company.

7 ~~(2)(1)~~ "Average daily balance" means the average daily
8 balance of public deposits held during the reported month. The
9 average daily balance must be determined by totaling, by
10 account, the daily balances held by the depositor and then
11 dividing the total by the number of calendar days in the
12 month. Deposit insurance is then deducted from each account
13 balance and the resulting amounts are totaled to obtain the
14 average daily balance.

15 ~~(3)(2)~~ "Average monthly balance" means the average
16 monthly balance of public deposits held, before deducting
17 deposit insurance, by the depository during any 12 calendar
18 months. The average monthly balance of the previous 12
19 calendar months must be determined by adding the average daily
20 balance before deducting deposit insurance for the reported
21 month and the average daily balances before deducting deposit
22 insurance for the 11 months preceding that month and dividing
23 the total by 12.

24 (4) "Book-entry form" means that securities are not
25 represented by a paper certificate but represented by an
26 account entry on the records of a depository trust clearing
27 system or, in the case of United States Government securities,
28 a Federal Reserve Bank.

29 ~~(5)(3)~~ "Capital account" means total equity capital,
30 as defined on the balance-sheet portion of the Consolidated
31 Reports of Condition and Income (call report) or the Thrift

1 Financial Report, less intangible assets, as submitted to the
2 regulatory banking authority.

3 (6)~~(4)~~ "Collateral-pledging level," for qualified
4 public depositories, means the percentage of collateral
5 required to be pledged as provided in s. 280.04 by a financial
6 institution.

7 (7)~~(5)~~ "Current month" means the month immediately
8 following the month for which the monthly report is due from
9 qualified public depositories.

10 (8)~~(6)~~ "Custodian" means the Treasurer or any bank,
11 savings association, or trust company that:

12 (a) Is organized and existing under the laws of this
13 state, any other state, or the United States;

14 (b) Has executed all forms required under this chapter
15 or any rule adopted hereunder;

16 (c) Agrees to be subject to the jurisdiction of the
17 courts of this state, or of courts of the United States which
18 are located within this state, for the purpose of any
19 litigation arising out of this chapter; and

20 (d) Has been approved by the Treasurer to act as a
21 custodian.

22 (9)~~(7)~~ "Default or insolvency" includes, without
23 limitation, the failure or refusal of a qualified public
24 depository to pay any check or warrant drawn upon sufficient
25 and collected funds by any public depositor or to return any
26 deposit on demand or at maturity together with interest as
27 agreed; the issuance of an order by any supervisory authority
28 restraining such depository from making payments of deposit
29 liabilities; or the appointment of a receiver for such
30 depository.

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1 (10)~~(8)~~ "Effective date of notice of withdrawal or
2 order of discontinuance" pursuant to s. 280.11(3) means that
3 date which is set out as such in any notice of withdrawal or
4 order of discontinuance from the Treasurer.

5 (11)~~(9)~~ "Eligible collateral" means securities as
6 designated in s. 280.13.

7 (12)~~(10)~~ "Financial institution" means, including, but
8 not limited to, an association, bank, brokerage firm, credit
9 union, industrial savings bank, savings and loan association,
10 trust company, or other type of financial institution
11 organized under the laws of this state or any other state of
12 the United States and doing business in this state or any
13 other state, in the general nature of the business conducted
14 by banks and savings associations.

15 (13)~~(11)~~ "Governmental unit" means the state or any
16 county, school district, community college district, special
17 district, metropolitan government, or municipality, including
18 any agency, board, bureau, commission, and institution of any
19 of such entities, or any court.

20 (14)~~(12)~~ "Loss to public depositors" means loss of all
21 principal and all interest or other earnings on the principal
22 accrued or accruing as of the date the qualified public
23 depository was declared in default or insolvent.

24 (15) "Operating subsidiary" means the qualified public
25 depository's 100-percent-owned corporation that has ownership
26 of pledged collateral. The operating subsidiary may have no
27 powers beyond those that its parent qualified public
28 depository may itself exercise. The use of an operating
29 subsidiary is at the discretion of the qualified public
30 depository and must meet the Treasurer's requirements.

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1 (16) "Pledged collateral" means securities or cash
2 held separately and distinctly by an eligible custodian for
3 the benefit of the Treasurer to be used as security for
4 Florida public deposits. This includes maturity and call
5 proceeds.

6 (17) "Pledgor" means the qualified public depository
7 and, if one is used, operating subsidiary.

8 (18) "Pool figure" means the total average monthly
9 balances of public deposits held by all qualified public
10 depositories during the immediately preceding 12-month period.

11 ~~(19)~~~~(13)~~ "Previous month" means the month or months
12 immediately preceding the month for which a monthly report is
13 due from qualified public depositories.

14 ~~(20)~~~~(14)~~ "Public deposit" means the moneys of the
15 state or of any county, school district, community college
16 district, special district, metropolitan government, or
17 municipality, including agencies, boards, bureaus,
18 commissions, and institutions of any of the foregoing, or of
19 any court, and includes the moneys of all county officers,
20 including constitutional officers, that are placed on deposit
21 in a bank, savings bank, or savings association and for which
22 the bank, savings bank, or savings association is required to
23 maintain reserves. This includes, ~~including~~, but is not
24 limited to, time deposit accounts, demand deposit accounts,
25 and nonnegotiable certificates of deposit. ~~All certificates~~
26 ~~of deposit, whether negotiable or nonnegotiable, shall be~~
27 ~~considered deposits and shall be subject to the provisions of~~
28 ~~this chapter.~~ Moneys in deposit notes and in other nondeposit
29 accounts such as ~~used in~~ repurchase or reverse repurchase
30 operations are ~~investments and are~~ not public deposits as
31 defined in this subsection. Securities, mutual funds, and

1 similar types of investments are not considered public
2 deposits and shall not be subject to the provisions of this
3 chapter.

4 (21)~~(15)~~ "Public depositor" means the Treasurer or
5 other chief financial officer or designee responsible for
6 handling public deposits.

7 (22)~~(16)~~ "Public deposits program" means the
8 administration of this chapter by or on behalf of the
9 Treasurer.

10 (23)~~(17)~~ "Qualified public depository" means any bank,
11 savings bank, or savings association that:

12 (a) Is organized and exists under the laws of the
13 United States, the laws of this state or any other state or
14 territory of the United States.

15 (b) Has its principal place of business in this state
16 or has a branch office in this state which is authorized under
17 the laws of this state or of the United States to receive
18 deposits in this state.

19 (c) Has deposit insurance under the provision of the
20 Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811
21 et seq.

22 (d) Has procedures and practices for accurate
23 identification, classification, reporting, and
24 collateralization of public deposits.

25 (e) Meets all the requirements of this chapter.

26 (f) Has been designated by the Treasurer as a
27 qualified public depository.

28 (24)~~(18)~~ "Reported month" means the month for which a
29 monthly report is due from qualified public depositories.

30 (25)~~(19)~~ "Required collateral" of a qualified public
31 depository means eligible collateral having a market value

1 equal to or in excess of the amount required to be pledged
2 pursuant to s. 280.04 as computed and reported monthly or when
3 requested by the Treasurer.

4 ~~(26)(20)~~ "Treasurer" means the Treasurer of the State
5 of Florida.

6 (27) "Treasurer's custody" is a collateral arrangement
7 governed by a contract between a designated Treasurer's
8 custodian and the Treasurer. This arrangement requires
9 collateral to be in the Treasurer's name in order to perfect
10 the security interest.

11 (28) "Triggering events" are events set out in s.
12 280.041(4) which give the Treasurer, as pledgee, the right to
13 instruct the custodian to transfer securities pledged,
14 interest payments, and other proceeds of pledged collateral
15 not previously credited to the pledgor.

16 Section 2. Section 280.04, Florida Statutes, is
17 amended to read:

18 (Substantial rewording of section. See
19 s. 280.04, F.S., for present text.)

20 280.04 Collateral for public deposits; general
21 provisions.--

22 (1) The Treasurer shall determine the collateral
23 requirements and collateral pledging level for each qualified
24 public depository following procedures established by rule.
25 These procedures shall include numerical parameters for
26 25-percent, 50-percent, 125-percent, and 200-percent pledge
27 levels based on nationally recognized financial rating
28 services information and established financial performance
29 guidelines.

30 (2) A qualified public depository may not accept or
31 retain a public deposit which is required to be secured unless

1 it has deposited with the Treasurer eligible collateral at
2 least equal to the greater of:
3 (a) The average daily balance of public deposits that
4 does not exceed the lesser of its capital account or 20
5 percent of the pool figure multiplied by the depository's
6 collateral-pledging level, plus the greater of:
7 1. One hundred twenty-five percent of the average
8 daily balance of public deposits in excess of capital
9 accounts; or
10 2. One hundred twenty-five percent of the average
11 daily balance of public accounts in excess of 20 percent of
12 the pool figure.
13 (b) Twenty-five percent of the average monthly balance
14 of public deposits.
15 (c) One hundred twenty-five percent of the average
16 daily balance of public deposits if the qualified public
17 depository:
18 1. Has been established for less than 3 years;
19 2. Has experienced material decreases in its capital
20 accounts; or
21 3. Has an overall financial condition that is
22 materially deteriorating.
23 (d) Two hundred percent of an established maximum
24 amount of public deposits that has been mutually agreed upon
25 by and between the Treasurer and the qualified public
26 depository.
27 (e) Minimum required collateral of \$100,000.
28 (3) Additional collateral is required within 48 hours
29 if public deposits are accepted that would increase the
30 qualified public depository's average daily balance for the
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1 current month by 25 percent over the average daily balance of
2 the previously reported month.

3 (4) Additional collateral of 20 percent of required
4 collateral is necessary if a valuation date other than the
5 close of business as described in subsection (5) has been
6 approved for the qualified public depository and the required
7 collateral is found to be insufficient based on the
8 Treasurer's valuation.

9 (5) Each qualified public depository shall value its
10 collateral in the following manner; it must:

11 (a) Use a nationally recognized source.

12 (b) Use market price, quality ratings, and pay-down
13 factors as of the close of business on the last banking day in
14 the reported month, or as of a date approved by the Treasurer.

15 (c) Report any material decline in value that occurs
16 before the date of mailing the monthly report to the
17 Treasurer.

18 Section 3. Section 280.041, Florida Statutes, is
19 created to read:

20 280.041 Collateral arrangements; agreements,
21 provisions, and triggering events.--

22 (1) With the approval of the Treasurer, a qualified
23 public depository or operating subsidiary, as pledgor, may
24 deposit eligible collateral with a custodian. Except in the
25 case of using a Federal Reserved Bank as custodian, which may
26 require other collateral agreement provisions, the following
27 are necessary for the Treasurer's approval:

28 (a) A completed collateral agreement in a form
29 prescribed by the Treasurer in which the pledgor agrees to the
30 following provisions:

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1 1. The pledgor shall own the pledged collateral. The
2 pledged collateral shall meet the definition of eligible
3 collateral and shall be at least equal to the amount of
4 required collateral.

5 2. The pledgor shall grant to the Treasurer an
6 interest in pledged collateral to secure Florida public
7 deposits. The pledgor shall not enter into or execute any
8 other agreement related to the pledged collateral that would
9 create an interest in or lien on that collateral in any manner
10 in favor of a third party without the written consent of the
11 Treasurer.

12 3. The pledgor shall not grant the custodian any lien
13 that attaches to the collateral in favor of the custodian that
14 is superior or equal to the security interest of the
15 Treasurer.

16 4. The pledgor shall agree that the Treasurer may,
17 without notice to or consent by the pledgor, require the
18 custodian to comply with and perform any and all requests and
19 orders directly from the Treasurer. These include, but are not
20 limited to, liquidating all collateral and submitting the
21 proceeds directly to the Treasurer in the name of the
22 Treasurer only or transferring all collateral into an account
23 designated solely by the Treasurer.

24 5. The pledgor shall acknowledge that the Treasurer
25 may, without notice to or consent by the pledgor, require the
26 custodian to hold principal payments and income for the
27 benefit of the Treasurer.

28 6. The pledgor shall initiate collateral transactions
29 on forms prescribed by the Treasurer in the following manner:

30 a. A deposit transaction of eligible collateral may be
31 made without prior approval from the Treasurer, provided that

1 security types that have restrictions have been approved in
2 advance of the transaction by the Treasurer, simultaneous
3 notification is given to the Treasurer, and the custodian has
4 not received notice from the Treasurer prohibiting deposits
5 without prior approval.

6 b. A substitution transaction of eligible collateral
7 may be made without prior approval from the Treasurer,
8 provided that security types that have restrictions have been
9 approved in advance of the transaction by the Treasurer, the
10 market value of the securities to be substituted is at least
11 equal to the amount withdrawn, simultaneous notification is
12 given to the Treasurer, and the custodian has not received
13 notice from the Treasurer prohibiting substitution.

14 c. A transfer of collateral between accounts at a
15 custodian requires the Treasurer's prior approval. The
16 collateral shall be released subject to redeposit in the new
17 account with a pledge to the Treasurer intact.

18 d. A transfer of collateral from a custodian to
19 another custodian requires the Treasurer's prior approval and
20 a valid collateral agreement with the new custodian. The
21 collateral shall be released subject to redeposit at the new
22 custodian with a pledge to the Treasurer intact.

23 e. A withdrawal transaction requires the Treasurer's
24 prior approval. The market value of eligible collateral
25 remaining after the withdrawal shall be at least equal to the
26 amount of required collateral. A withdrawal transaction shall
27 be executed for any release of collateral, including maturity
28 or call proceeds.

29 f. Written notice shall be sent to the Treasurer to
30 remove from the inventory of pledged collateral a pay-down
31 security that has paid out with zero principal remaining.

1 7. If pledged collateral includes definitive
2 (physical) securities in registered form which are in the name
3 of the pledgor or a nominee, the pledgor shall deliver the
4 following documents when requested by the Treasurer:
5 a. A separate certified power of attorney in a form
6 prescribed by the Treasurer for each issue of securities.
7 b. Separate bond assignment forms as required by the
8 bond agent or trustee.
9 c. Certified copies of resolutions adopted by the
10 pledgor's governing body authorizing execution of these
11 documents.
12 8. The pledgor shall be responsible for all costs
13 necessary to the functioning of the collateral agreement or
14 associated with confirmation of pledged collateral to the
15 Treasurer and acknowledges that these costs shall not be a
16 charge against the Treasurer or his or her interests in the
17 pledged collateral.
18 9. The pledgor, if notified by the Treasurer, shall
19 not be allowed to use a custodian if that custodian fails to
20 complete the collateral agreement, releases pledged collateral
21 without the Treasurer's approval, fails to properly complete
22 confirmations of pledged collateral, fails to honor a request
23 for examination of definitive pledged collateral and records
24 of book-entry securities, or fails to provide requested
25 documents on definitive securities.
26 10. The pledgor shall be subject to the jurisdiction
27 of the courts of the State of Florida, or of courts of the
28 United States located within the State of Florida, for the
29 purpose of any litigation arising out of the act.
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1 11. The pledgor is responsible and liable to the
2 Treasurer for any action of agents the pledgor uses to execute
3 collateral transactions or submit reports to the Treasurer.

4 12. The pledgor shall agree that any information,
5 form, or report electronically transmitted to the Treasurer
6 shall have the same enforceability as a signed writing.

7 13. The pledgor shall submit proof that authorized
8 individuals executed the collateral agreement on behalf of the
9 pledgor.

10 14. The pledgor shall agree by resolution of the board
11 of directors that collateral agreements entered into in order
12 to hold Florida public deposits have been formally accepted
13 and constitute official records of the pledgor.

14 15. The pledgor shall be bound by any other provision
15 found necessary for a perfected security interest in
16 collateral under the Uniform Commercial Code.

17 (b) A completed collateral agreement in a form
18 prescribed by the Treasurer in which the custodian agrees to
19 the following provisions:

20 1. The custodian shall have no responsibility to
21 ascertain whether the pledged securities are at least equal to
22 the amount of required collateral or whether the pledged
23 securities are eligible collateral.

24 2. The custodian shall hold pledged collateral in a
25 custody account for the Treasurer to secure Florida public
26 deposits. The custodian shall not enter into or execute any
27 other agreement related to the collateral that would create an
28 interest in or lien on that collateral in any manner in favor
29 of a third party without the written consent of the Treasurer.

30 3. The custodian shall agree that any lien that
31 attaches to the collateral in favor of the custodian shall not

1 be superior or equal to the security interest of the
2 Treasurer.

3 4. The custodian shall, without notice to or consent
4 by the pledgor, comply with and perform any and all requests
5 and orders directly from the Treasurer. These include, but are
6 not limited to, liquidating all collateral and submitting the
7 proceeds directly to the Treasurer in the name of the
8 Treasurer only or transferring all collateral into an account
9 designated solely by the Treasurer.

10 5. The custodian shall consider principal payments on
11 pay-down securities and income paid on pledged collateral as
12 the property of the pledgor and shall pay thereto, provided
13 that the custodian has not received written notice from the
14 Treasurer to hold such principal payments and income for the
15 benefit of the Treasurer.

16 6. The custodian shall process collateral transactions
17 on forms prescribed by the Treasurer in the following manner:

18 a. A deposit transaction of eligible collateral may be
19 made without prior approval from the Treasurer unless the
20 custodian has received notice from the Treasurer requiring the
21 Treasurer's prior approval.

22 b. A substitution transaction of eligible collateral
23 may be made without prior approval from the Treasurer,
24 provided the pledgor certifies that the market value of the
25 securities to be substituted is at least equal to the market
26 value amount of the securities to be withdrawn and that the
27 custodian has not received notice from the Treasurer
28 prohibiting substitution.

29 c. A transfer of collateral between accounts at a
30 custodian requires the Treasurer's prior approval. The
31 collateral shall be released subject to redeposit in the new

1 account with a pledge to the Treasurer intact. Confirmation
2 from the custodian to the Treasurer must be received within 5
3 business days after the redeposit.

4 d. A transfer of collateral from a custodian to
5 another custodian requires the Treasurer's prior approval. The
6 collateral shall be released subject to redeposit at the new
7 custodian with a pledge to the Treasurer intact. Confirmation
8 from the new custodian to the Treasurer must be received
9 within 5 business days after the redeposit.

10 e. A withdrawal transaction requires the Treasurer's
11 prior approval. A withdrawal transaction shall be executed for
12 the release of any pledged collateral, including maturity or
13 call proceeds.

14 7. If pledged collateral includes definitive
15 (physical) securities in registered form, which are in the
16 name of the custodian or a nominee, the custodian shall
17 deliver the following documents when requested by the
18 Treasurer:

19 a. A separate certified power of attorney in a form
20 prescribed by the Treasurer for each issue of securities.

21 b. Separate bond assignment forms as required by the
22 bond agent or trustee.

23 c. Certified copies of resolutions adopted by the
24 custodian's governing body authorizing execution of these
25 documents.

26 8. The custodian shall acknowledge that the pledgor is
27 responsible for all costs necessary to the functioning of the
28 collateral agreement or associated with confirmation of
29 securities pledged to the Treasurer and that these costs shall
30 not be a charge against the Treasurer or his or her interests
31 in the pledged collateral.

1 9. The custodian shall agree to provide confirmation
2 of pledged collateral upon request from the Treasurer. This
3 confirmation shall be provided within 15 working days after
4 the request, in a format prescribed by the Treasurer, and
5 shall require no identification other than the pledgor's name
6 and location, unless the special identification is provided in
7 the collateral agreement.

8 10. The custodian shall be subject to the jurisdiction
9 of the courts of the State of Florida, or of courts of the
10 United States located within the State of Florida, for the
11 purpose of any litigation arising out of the act.

12 11. The custodian shall be responsible and liable to
13 the Treasurer for any action of agents the custodian uses to
14 hold and service collateral pledged to the Treasurer.

15 12. The custodian shall agree that any information,
16 form, or report electronically transmitted to the Treasurer
17 shall have the same enforceability as a signed writing.

18 13. The Treasurer shall have the right to examine
19 definitive pledged collateral and records of book-entry
20 securities during the regular business hours of the custodian
21 without cost to the Treasurer.

22 14. The responsibilities of the custodian for the
23 safekeeping of the pledged collateral shall be limited to the
24 diligence and care usually exercised by a banking or trust
25 institution toward its own property.

26 15. The custodian shall be bound by any other
27 provision found necessary for the Treasurer to have a
28 perfected security interest in collateral under the Uniform
29 Commercial Code.

30 (2) With the approval of the Treasurer, a qualified
31 public depository or operating subsidiary, as pledgor, may

1 deposit eligible collateral with a Federal Reserve Bank, as
2 custodian, under an agreement with provisions as stated in
3 subsection (1) which are consistent with both federal and
4 state laws, rules, and regulations.

5 (3) The Treasurer may require deposit or transfer of
6 collateral into a custodial account established in the
7 Treasurer's name at a designated custodian. This requirement
8 for Treasurer's custody shall have the following
9 characteristics:

10 (a) One or more triggering events must have occurred.

11 (b) The custodian used must be a Treasurer's approved
12 custodian that must:

13 1. Meet the definition of custodian.

14 2. Not be an affiliate of the qualified public
15 depository.

16 3. Be bound under a distinct Treasurer's custodial
17 contract.

18 (c) All deposit transactions require the approval of
19 the Treasurer.

20 (d) All collateral must be in book-entry form.

21 (e) The qualified public depository shall be
22 responsible for all costs necessary to the functioning of the
23 contract or associated with the confirmation of securities in
24 the name of the Treasurer and shall acknowledge that these
25 costs shall not be a charge against the Treasurer and may be
26 deducted from the collateral or income earned if unpaid.

27 (4) The Treasurer may direct a custodian to deposit or
28 transfer collateral and proceeds of securities not previously
29 credited upon the occurrence of one or more triggering events,
30 provided that, to the extent not incompatible with the
31 protection of public deposits as determined in the Treasurer's

- 1 sole and absolute discretion, the Treasurer shall provide a
2 custodian with 48 hours' advance notice before directing such
3 deposit or transfer. Triggering events include:
- 4 (a) A determination by the Treasurer that an immediate
5 danger to the public health, safety, or welfare exists.
- 6 (b) Failure of the qualified public depository to have
7 adequate procedures and practices for the accurate
8 identification, classification, reporting, and
9 collateralization of public deposits.
- 10 (c) Failure of the custodian to provide or allow
11 inspection and verification of documents, reports, records, or
12 other information dealing with the pledged collateral or
13 financial information.
- 14 (d) Failure of the qualified public depository or its
15 operating subsidiary to provide or allow inspection and
16 verification of documents, reports, records, or other
17 information dealing with Florida public deposits, pledged
18 collateral, or financial information.
- 19 (e) Failure of the custodian to hold income and
20 principal payments made on securities held as collateral or to
21 deposit or transfer such payments pursuant to the Treasurer's
22 instructions.
- 23 (f) Default or insolvency by the qualified public
24 depository.
- 25 (g) Failure of the qualified public depository to pay
26 an assessment.
- 27 (h) Failure of the qualified public depository to pay
28 an administrative penalty.
- 29 (i) Failure of the qualified public depository to meet
30 financial condition standards.
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1 (j) Charge by the qualified public depository of a
2 withdrawal penalty to a public depositor when the qualified
3 public depository is suspended, disqualified, or withdrawn
4 from the public deposits program.

5 (k) Failure of the qualified public depository to
6 provide, as required, the public depositor with annual
7 confirmation information on all open Florida public deposit
8 accounts.

9 (l) Pledge by the qualified public depository of
10 insufficient or unacceptable collateral to cover public
11 deposits.

12 (m) Release of pledged collateral, other than a proper
13 substitution, without the prior approval of the Treasurer.

14 (n) Violation by the qualified public depository,
15 custodian, operating subsidiary, or agent of any provision of
16 the act, if the Treasurer determines that such violation may
17 be remedied by a move of collateral.

18 (o) Failure of the qualified public depository,
19 custodian, operating subsidiary, or agent to timely cooperate
20 in resolving problems by the date established in written
21 communication from the Treasurer.

22 (p) Failure of the custodian to provide sufficient
23 confirmation information.

24 (q) Events that would bring about an administrative or
25 legal action by the Treasurer.

26 (5) The Treasurer shall adopt rules to identify forms
27 and establish procedures for collateral agreements and
28 transactions, furnish confirmation requirements, establish
29 procedures for using an operating subsidiary and agents, and
30 clarify terms.

31

1 Section 4. Paragraph (c) of subsection (1) and
2 subsection (2) of section 280.13, Florida Statutes, are
3 amended to read:

4 280.13 Collateral eligible for pledge by banks and
5 savings associations.--

6 (1) Securities eligible to be pledged as collateral by
7 banks and savings associations shall be limited to:

8 (c) Obligations of the following federal agencies:

9 1. Farm credit banks.

10 2. Federal land banks.

11 3. The Federal Home Loan Bank and its district banks,
12 ~~including time deposits.~~

13 4. Federal intermediate credit banks.

14 5. The Federal Home Loan Mortgage Corporation.

15 6. The Federal National Mortgage Association.

16 7. Obligations guaranteed by the Government National
17 Mortgage Association.

18 (2) In addition to the securities listed in subsection
19 (1), the Treasurer may, in his or her discretion, allow the
20 pledge of the following types of securities. The Treasurer
21 shall, by rule, define any restrictions, specific criteria, or
22 circumstances for which these instruments will be acceptable.

23 (a) Securities of, or other interests in, any open-end
24 management investment company registered under the Investment
25 Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended
26 from time to time, provided the portfolio of such investment
27 company is limited to direct obligations of the United States
28 Government and to repurchase agreements fully collateralized
29 by such direct obligations of the United States Government and
30 provided such investment company takes delivery of such
31 collateral either directly or through an authorized custodian.

1 (b) Collateralized Mortgage Obligations.

2 (c) Real Estate Mortgage Investment Conduits.

3 ~~(d) Certificates of deposit.~~

4 Section 5. Paragraph (g) of subsection (2) and
5 subsection (3) of section 625.52, Florida Statutes, are
6 amended to read:

7 625.52 Securities eligible for deposit.--

8 (2) To be eligible for deposit under subsection (1),
9 any bond or note must have the following characteristics:

10 (g) ~~After October 1, 1992,~~The bond or note must be
11 eligible for book-entry form on the books of the Federal
12 Reserve Book-Entry System or in a depository trust clearing
13 system.

14 (3) To be eligible for deposit under paragraph (1)(h)
15 ~~subsection (1)~~, any certificate of deposit must have the
16 following characteristics:

17 (a) The certificate of deposit must be issued by a
18 bank, savings bank, or savings association that is organized
19 under the laws of the United States, of this state, or of any
20 other state and that has a principal office or branch office
21 in this state which is authorized to receive deposits in this
22 state ~~qualified public depository as defined in s. 280.02(17),~~
23 ~~and the depository must conform to and be bound by all~~
24 ~~provisions of chapter 280 with regard to such funds.~~

25 (b) The certificate of deposit must be
26 interest-bearing and may not be issued in discounted form.

27 (c) The certificate of deposit must be issued for a
28 period of not less than 1 year.

29 (d) The issuing bank, savings bank, or savings
30 association ~~qualified public depository~~ must agree to the
31 terms and conditions of the State Treasurer regarding the

1 rights to the certificate of deposit and must have executed a
2 ~~provide~~ written certificate of deposit confirmation of such
3 agreement with ~~to~~ the State Treasurer. The terms and
4 conditions of such agreement shall ~~must~~ include, but need not
5 be limited to:

6 1. Exclusive authorized signature authority for the
7 State Treasurer.

8 2. Agreement to pay, without protest, the proceeds of
9 its certificate of deposit to the department within thirty
10 business days after presentation. ~~If the depository fails to~~
11 ~~pay the proceeds, the State Treasurer may take legal title to,~~
12 ~~and sell, sufficient securities of the depository held~~
13 ~~pursuant to chapter 280 to pay to the department the face~~
14 ~~value of the certificate of deposit.~~

15 3. Prohibition against levies, setoffs, survivorship,
16 or other conditions that might hinder the department's ability
17 to recover the full face value of a certificate of deposit.

18 4. Instructions regarding interest payments, renewals,
19 taxpayer identification, and early withdrawal penalties.

20 5. Agreement to be subject to the jurisdiction of the
21 courts of this state, or those of the United States which are
22 located in this state, for the purposes of any litigation
23 arising out of this section.

24 ~~6.5.~~ Such other conditions as the department requires
25 ~~may require.~~

26 Section 6. Section 660.27, Florida Statutes, is
27 amended to read:

28 660.27 Deposit of securities with department
29 ~~Treasurer.~~--

30 (1) Before transacting any trust business in this
31 state, every trust company ~~and every state or national bank or~~

1 ~~state or federal association having trust powers~~ shall give
2 satisfactory security by ~~the deposit or~~ pledge of security of
3 the kind or type provided by rule in this section having at
4 all times a market value in an amount at least equal to 25
5 percent of the issued and outstanding capital stock of such
6 trust company, ~~bank, or state or federal stock association or,~~
7 ~~in the case of a federal mutual association, an equivalent~~
8 ~~amount determined by the department, or the sum of \$25,000,~~
9 ~~whichever is greater.~~ However, the value of the security
10 ~~deposited or~~ pledged pursuant to the provisions of this
11 section by a ~~state trust company, a state bank or state~~
12 ~~association having trust powers, or a national bank or federal~~
13 ~~association~~ having its principal office in this state ~~and~~
14 ~~having trust powers~~ shall not be required to exceed \$500,000.
15 Any notes, mortgages, bonds, or other securities, other than
16 shares of stock, eligible for investment by a ~~state bank,~~
17 ~~state association, or~~ state trust company, or eligible for
18 investment by fiduciaries, shall be accepted as satisfactory
19 security for the purposes of this section.

20 (2) The department Treasurer shall determine whether
21 the security ~~deposited or~~ pledged pursuant to this section, or
22 tendered for such ~~deposit or~~ pledge, is of the kind or type
23 permitted, and has a market value in the amount required, by
24 subsection (1). The department may disallow otherwise
25 satisfactory security that is of a type susceptible to large
26 fluctuations in value or that derives its value from indices
27 of value, interest rates, or other instruments or from sources
28 other than the repayment capacity of the issuer. The security
29 required by this section shall be ~~deposited with or to the~~
30 ~~credit of, or~~ pledged to, the department Treasurer for the
31 account of each ~~state or national bank, state or federal~~

1 ~~association, or~~ trust company ~~depositing or~~ pledging the same
2 and shall be used, if at all, by the liquidator of such ~~bank,~~
3 ~~association, or~~ trust company with first priority being given
4 to claims on account of the trust business or fiduciary
5 functions of such ~~bank, association, or~~ trust company or,
6 prior to liquidation, for the payment of any judgment or
7 decree which may be rendered against such ~~bank, association,~~
8 ~~or~~ trust company in connection with its trust business or its
9 fiduciary functions if such judgment or decree is not
10 otherwise paid by, or out of other assets of, such ~~bank,~~
11 ~~association, or~~ trust company.

12 (3) Any security of any kind which has been ~~deposited~~
13 ~~or~~ pledged as provided in this section may at any time, by or
14 upon the direction of such ~~bank, association, or~~ trust company
15 which ~~deposited or~~ pledged such security, be withdrawn and
16 released from such pledge provided that simultaneously
17 therewith satisfactory security as provided in this section,
18 in such amount, if any, as may be necessary in order to comply
19 with the requirements of this section, is substituted for the
20 security so withdrawn and released. With respect to the
21 ~~deposit or~~ pledge of securities as provided in this section,
22 the department Treasurer may accept a safekeeping receipt, in
23 a form it ~~he or she~~ prescribes, issued by another bank, trust
24 company, or savings association located within or without the
25 state.

26 (4) The department may adopt rules to implement this
27 section.

28 Section 7. This act shall take effect July 1, 2000.
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LEGISLATIVE SUMMARY

Substantially revises guidelines and standards governing collateral and collateral agreements for public deposits. Prescribes duties of the Treasurer and the Department of Banking and Finance with respect to establishing duties of public depositories and establishing standards for securing deposits.